

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

IN RE:

JAMES R DUNCAN
1019 MOORINGS COURT
MUSKEGON MI 49445

Case No: D G 18-01406
Date Filed: 3/30/18
Chapter 13
Honorable: Scott W. Dales

Debtor(s) /

**TRUSTEE'S MOTION TO DISMISS THE CHAPTER 13 PROCEEDINGS AND
NOTICE OF MOTION PURSUANT TO 11 U.S.C. 1307(c)**

The Chapter 13 Trustee, **Brett N. Rodgers**, hereby moves this Court to dismiss the above captioned Chapter 13 case for the following reasons pursuant to 11 U.S.C. 1307(c):

(X) 1307(c)(1) Unreasonable delay by the debtor that is prejudicial to creditors:

(X) Failure to cooperate with the Trustee and provide the following documents pursuant to 11 U.S.C § 521 and Bankruptcy Rule 4002: homeowners insurance for all properties, utility bills that support \$\$1,200 per month, proof of income, payroll order, current SEV and Deed for all properties, 2017 federal and state tax returns, evidence filed 2012-2017 taxes, bank statements and business case questionnaire.

(X) 1307(c)(4) Failure to commence making timely payments under section 1326.

(X) Plan payment arrears in the amount of \$7,200 Date of last payment: 5/30/18

(X) Plan exceeds 60 months in violation of § 1322(d)(2)(C); the plan is currently running 68 months

(X) Other: The debtor has failed to file tax returns for 2012-2017 with the IRS. The debtor has failed to list the following prosperities in plan or schedules A/B: 2247 Valley St, 2212 Howden St, 2212 Reynolds St and 2108 Wood St. Amend plan to remove Muskegon County Treasurer from the continuing mortgage payment section of the plan. Amend plan to provide for property tax escrows for multiple properties. Amend plan to provide 100% plus interest to the general unsecured creditors. Amend Statement of Financial Affairs to include all debtors prior and current businesses.

Note: As a result of the above Motion being made, your case could be converted to a Chapter 7 case.

NOTICE OF MOTION

Take notice that if a timely response is filed the within motion will be heard before the Honorable Scott W. Dales on **8/16/18** at **9:00** A.M. This hearing will be held at the U.S. Bankruptcy Court, One Division Ave NW, 2nd Floor, Courtroom A, Grand Rapids, MI 49503.

If you wish to oppose the Motion you must file a written response with the Bankruptcy Court at One Division Ave.,N. Room 200, Grand Rapids, MI 49503 and serve a copy upon the Chapter 13 Trustee at 99 Monroe Ave NW, Suite 601, Grand Rapids MI 49503 within 30 days of the date on which the Bankruptcy Noticing Center (BNC) served this Motion to Dismiss. The

response filed must comply with Local Bankruptcy Rule 9013(d) and must state with particularity the reasons why the Trustee's Motion should not be granted. If a timely response is not filed, the Chapter 13 Trustee may at any time after the expiration of the 30 day period, file with the Court a certificate stating that no timely response or request for hearing has been filed together with a proposed Order Dismissing the case and cancel the scheduled hearing date as moot.

Dated: 7/2/2018

/s/ Brett N. Rodgers
Brett N. Rodgers, Trustee

PROOF OF SERVICE

This Motion to Dismiss was served electronically upon the attorney for the debtor(s), if applicable, and the debtor(s) by the BNC.

ATTORNEY FOR DEBTOR(S): MICHAEL M MALINOWSKI